

JOHNSON UTILITIES, L.

5230 East Shea Boulevard * Scottsdale, Arizona 85254
PH: (480) 998-3300; FAX: (480) 483-7908



0000094593

ORIGINAL

March 13, 2009

Brian Bozzo
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

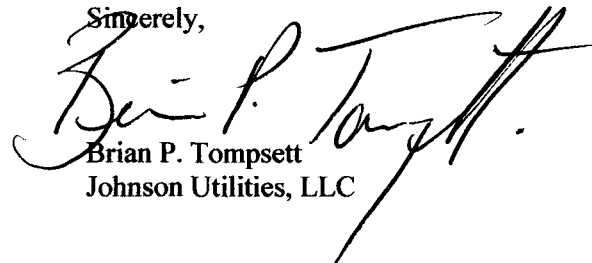
RE: Johnson Utilities, L.L.C.: Compliance with Decision No. 69414
ACC Docket No.: WS-02987A-06-0663
Johnson Utilities' Amended ADWR Designation of Assured Water Supply

Dear Mr. Bozzo:

Pursuant to the above-referenced matter, Johnson Utilities hereby submits this compliance filing in accordance with the Commission's orders. Enclosed please find Johnson Utilities' Amended Arizona Department of Water Resources Designation of Assured Water Supply for the extension area attached hereto as Attachment No. 1.

If you need any additional information in regards to this compliance item, please do not hesitate to contact me. Thank you for your time and consideration in this matter.


Sincerely,


Brian P. Tompsett
Johnson Utilities, LLC

Cc: Docket Control (1 original, 17 copies)
Jeffrey Crockett, Snell & Wilmer

Arizona Corporation Commission
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ATTACHMENT 1

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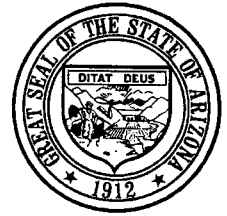
ARIZONA DEPARTMENT OF WATER RESOURCES

Office of Assured and Adequate Water Supply

3550 North Central Ave., 2nd Floor, Phoenix, AZ 85012

Telephone 602 771-8599

Fax 602 771-8689



JANET NAPOLITANO
Governor

HERB GUENTHER
Director

January 5, 2009

Brian Tompsett
Johnson Utilities, LLC
5230 E. Shea Blvd. Suite 200
Scottsdale, AZ 85254

Re: Designation of Assured Water Supply (DWR No. 86-400665.0001) Johnson Utilities-Phx

Dear Mr. Tompsett:

I am pleased to inform you that the Department of Water Resources has approved the application for a Designation of Assured Water Supply for Johnson Utilities-Phoenix. We have enclosed the formal Decision and Order. The Decision and Order includes an itemization of Johnson Utilities-Phoenix's responsibilities in maintaining the Designation.

Johnson Utilities-Phoenix's status as a designated water provider demonstrates that Johnson is taking a long-term perspective in managing water resources. Johnson Utilities-Phoenix's commitment to sound water management represents a major contribution to the State's water management goal of achieving safe-yield in the Phoenix Active Management Area.

If you have any questions regarding these documents, please contact me at (602) 771-8504.

Sincerely,

John Schneeman, Manager
Assured and Adequate Water Supply

JFS/rbo

cc: via electronic mail

Ms. Cindy Ferrin, Arizona Department of Real Estate
Michael Pearce, Maguire & Pearce
J. Scott Miller, Director, Phoenix AMA

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DEPARTMENT OF WATER RESOURCES

BEFORE THE DIRECTOR

IN THE MATTER OF THE APPLICATION OF JOHNSON
UTILITIES, LLC FOR A DESIGNATION AS HAVING AN
ASSURED WATER SUPPLY IN THE PHOENIX ACTIVE
MANAGEMENT AREA

)
) AWS No. 2009-001
)
) DECISION AND ORDER
)
) No. 86-400665.0001

I. INTRODUCTION

On July 9, 2007, the Department of Water Resources ("Department") received an application from Johnson Utilities, LLC dba Johnson Utilities Phoenix ("Johnson-Phoenix") requesting that the Department modify Johnson-Phoenix's designation of assured water supply pursuant to A.R.S. § 45-576 *et seq.* and A.A.C. R12-15-701 *et seq.* On December 27, 2007 and January 3, 2008, the Department gave public notice of the application pursuant to A.R.S. § 45-578 and no objections to the application were filed with the Department.

After receiving Johnson-Phoenix's application to modify its designation of assured water supply, the Department reviewed relevant information regarding the modification request, including: 1) hydrologic information on file with the Department; 2) information regarding consistency with the management plan and the management goal of the Phoenix Active Management Area ("AMA"); and 3) information regarding Johnson-Phoenix's financial capability to construct the necessary delivery system, treatment works and storage facilities. Based on that information, the Department makes the following Findings of Fact, Conclusions of Law and Order of Designation and Conditions of Designation:

II. FINDINGS OF FACT

A. General

1. Johnson-Phoenix is a private water company subject to the jurisdiction of the Arizona Corporation Commission ("ACC").

2. Johnson-Phoenix provides domestic water service within the boundaries of its certificate of convenience and necessity ("CC&N"), as approved by the ACC.
3. Johnson-Phoenix currently serves water through its municipal distribution system to its customers within the Phoenix AMA.
4. On August 12, 2003, Johnson-Phoenix was designated as having an assured water supply in Decision and Order AWS 2003-004, No. 26-40665.0000.

B. Water Demands

5. Johnson-Phoenix's current demand as of calendar year 2007 is 7,817 acre-feet per year ("current demand").
6. Johnson-Phoenix's committed demand as of calendar year 2007 is 2,945 acre-feet per year ("committed demand").
7. Johnson-Phoenix's projected demand in 2028 is 7,392 acre-feet per year ("2028 projected demand"). The 2028 projected demand does not include the current demand or the committed demand, but does include the demand at build-out of plats reasonably projected to be approved through calendar year 2028.
8. Johnson-Phoenix's annual estimated water demand in 2028, which is the sum of its current demand, committed demand and 2028 projected demand, is 18,154 acre-feet per year ("2028 annual estimated water demand").

C. Groundwater: Physical, Continuous and Legal Availability and Consistency with the Management Goal

9. Johnson-Phoenix has the right to withdraw and deliver groundwater to its customers pursuant to service area right No. 56-002346.0000.
10. Historic hydrologic information demonstrates that depth-to-static water levels within the Johnson-Phoenix service area currently range from approximately 300 feet to 700 feet below land surface.
11. Johnson-Phoenix has demonstrated that after withdrawing 18,154 acre-feet per year of groundwater for 100 years, the depth-to-static water level within Johnson-Phoenix's service area is not expected to exceed 1,000 feet below land surface.

- 1 12. As of the date of this Decision and Order, Johnson-Phoenix's current groundwater allowance is
2 0.00 acre-feet per year, pursuant to A.A.C. R12-15-724(A)(2).
- 3 13. Pursuant to A.A.C. R12-15-724(A)(4), the Director shall add a volume for incidental recharge to
4 Johnson-Phoenix's groundwater allowance for each calendar year, based on its total water use
5 from any source in the previous calendar year.
- 6 14. Johnson-Phoenix is a member service area of the Central Arizona Groundwater Replenishment
7 District ("CAGRDR"). The August 27, 2007 Member Service Area Agreement between Johnson-
8 Phoenix and the CAGRDR ("Agreement") provides that the amount of Excess Groundwater, as
9 defined in the Agreement, delivered by Johnson-Phoenix shall not exceed 18,154 acre-feet per
10 year.
- 11 15. The Director has made a determination, which has not expired, that the most recent CAGRDR
12 Plan of Operation is consistent with achieving the management goal of the Phoenix AMA.
- 13 16. As of the date of this decision and order, the CAGRDR is in compliance with its groundwater
14 replenishment obligation for the Phoenix AMA.
- 15 17. Johnson-Phoenix has demonstrated that it has constructed wells of sufficient capacity to satisfy
16 a portion of its 2028 annual estimated groundwater demand of 18,154 acre-feet per year for at
17 least 100 years.
- 18 18. Pursuant to R12-15-717(B), Johnson-Phoenix has demonstrated that it will construct additional
19 wells of sufficient capacity to meet the remainder of its 2028 annual estimated groundwater
20 demand of 18,154 acre-feet per year for at least 100 years.

21 **D. Consistency with the Management Plan**

- 22 19. Johnson-Phoenix is currently regulated as a large municipal provider under the Municipal
23 Conservation Program in the Third Management Plan for the Phoenix AMA ("Management
24 Plan"). As of the date the application was filed, Johnson-Phoenix has not been found to be out
25 of compliance with the Management Plan.
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1 **IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION**

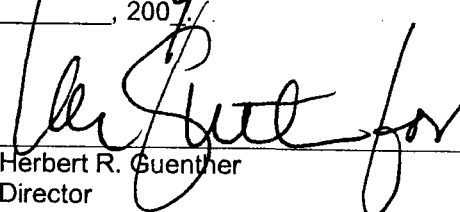
2 Having reviewed the Findings of Fact and Conclusions of Law, the Department hereby issues
3 this Decision and Order designating Johnson-Phoenix as having an assured water supply, subject to
4 the following conditions:

- 5 1. The Director reserves the right under A.A.C. R12-15-711(C) to periodically review and modify
6 the designation for good cause as conditions warrant.
- 7 2. Pursuant to A.A.C. R12-15-711(F), the Director may, at any time revoke this designation if the
8 findings of fact or the conclusions of law upon which the designation is based change or are
9 invalid, or if an assured water supply no longer exists.
- 10 3. The Director's determination that an assured water supply exists for Johnson-Phoenix is based
11 on its analysis of the water supplies pledged by Johnson-Phoenix.
- 12 4. Johnson-Phoenix shall submit an application to modify this decision and order designating
13 Johnson-Phoenix as having an assured water supply to increase the term of the designation
14 when the sum of Johnson-Phoenix's current demand, committed demand and two year
15 projected demand exceeds 18,154 acre-feet per year, or by December 31, 2026, whichever is
16 earlier.
- 17 5. Pursuant to A.A.C. R12-15-719, Johnson-Phoenix shall satisfy any state water quality
18 requirements established for its proposed use after the date of this designation.
- 19 6. Johnson-Phoenix shall annually provide to the Department the following information for the
20 previous calendar year in the manner prescribed in A.A.C. R12-15-711(A):
- 21 a. An estimate of the demand of platted, undeveloped lots located in Johnson-
22 Phoenix's service area.
- 23 b. The projected demand at build-out for customers with which Johnson-Phoenix
24 has entered into a notice of intent to serve agreement in the previous calendar
25 year.
- 26 c. A report regarding Johnson-Phoenix's compliance with water quality
 requirements.

- 1 d. The depth-to-static water level of all wells from which Johnson-Phoenix
2 withdrew water during the previous calendar year.
- 3 e. Any other information requested by the Director to determine whether Johnson-
4 Phoenix continues to meet all the requirements necessary to maintain this
5 designation of assured water supply.

6 **IT IS HEREBY ORDERED THAT JOHNSON-PHOENIX BE DESIGNATED AS HAVING AN**
7 **ASSURED WATER SUPPLY UNTIL DECEMBER 31, 2028.**

8 DATED this 2nd day of January, 2009.

9
10 
11 Herbert R. Guenther
Director
Arizona Department of Water Resources

12 A copy of the foregoing
13 **Decision and Order** mailed
14 by certified mail this 2nd day
15 of January, 2009 to:

16 Johnson Utilities Company
5230 E. Shea Blvd.
Suite 200
Scottsdale, AZ 85254

Certified Mail No.: 7006 2760 0002 4885 1909

17 Sent by: Norman Coupan

18 A copy of the foregoing sent by
19 electronic mail this 2nd day
20 of January, 2009 to:

21 Michael J. Pearce
22 Maguire & Pearce
23 2999 N. 44th Street
Suite 630
Phoenix, AZ 85018

24 Cindy Ferrin
25 Arizona Department of Real Estate
26 2910 N. 44th Street
Phoenix, AZ 85018

Cliff Neal
Central Arizona Groundwater
Replenishment District
P.O. Box 43020
Phoenix, AZ 85080

J. Scott Miller, Area Director
Phoenix Active Management Area

Attachment A
Johnson Utilities-Phoenix Modification of Designation Application
Water Source and Supply Summary
File No. 86-400665.0001

#	Source	Approved (af/yr)	Capacity	Legal Authority	Comments
Groundwater:					
a	Groundwater replenished by CAGRD	18,154.00	Available well capacity = 12,193.70 af/yr	Service Area Right #56-002346.0000	Member service area See finding #13
c	Groundwater Allowance	0			Incidental recharge credit of 4% annually.
Subtotal		18,154.00			
TOTAL PHYSICALLY AVAILABLE		18,154.00			
REJECTED DEMAND		18,154.00 (2028)			